

REMARKS

Applicants have amended claim 6 to overcome the antecedent basis rejection under Section 112.

Applicants respectfully request reconsideration of the rejection of all claims based upon the Metzger published patent application US PGPub 2006/0085308 whether on the grounds of anticipation or obviousness. The Metzger published application should be withdrawn as prior art and not applied against the claims.

The present application was filed on September 8, 2003.

The Metzger published application was filed on September 14, 2005, over two years after the September 8, 2003 filing date of the present application. Thus, the Metzger published application does not qualify as prior art.

The Metzger published application is a continuation-in-part application based on earlier filed application Serial No. 10/802,558, which was filed on March 17, 2004, about six months after the September 8, 2003 filing date of the present application. Thus, even the earlier filed related non-provisional application does not qualify as prior art.

The earlier-filed related non-provisional application Serial No. 10/802,558 claims priority on Provisional patent application No. 60/455,290, filed on March 17, 2003. This Provisional application is the only application with an early enough filing date to qualify as prior art against the present application. However, the Provisional application is substantially different than the Metzger published application cited in the Office Action, and most of the disclosure found in the Metzger published application does not exist in the prior art Provisional application. Only the disclosed information in the Provisional application qualifies as prior and any rejection must be based on the disclosure found in the Provisional application since only that disclosure precedes the filing date of the present application. A copy of the Provisional application is supplied herewith.

To illustrate one difference between the Metzger published application and the Provisional application, it is noted that the Metzger published application contains 22 sheets of drawings which includes Figures 1-3, 4A, 4B, 5A-5G, 6, 7A-7G, 8A, 8B, and 9-12 (for a total of 26 drawings). Whereas the Provisional application has 1 sheet of drawings which includes Figures 1 and 2, which appear to correspond to only Figures 1 and 3 of the Metzger published application. Further, the Metzger published application

has 11 pages of double column printed text, while the Provisional application only has 6 pages of typed text. As noted above, the Metzger published application is a continuation-in-part of the earlier filed related non-provisional so by definition the Metzger published application is recognized as containing new matter that does not trace back to the earlier filed related non-provisional application, and as will be shown by some examples, portions cited in the Office Action cannot be traced back to the Provisional application, i.e., the only application which even qualifies as prior art. If necessary, Applicants reserve the right to swear their invention behind the Provisional application should it be cited against the pending application in a future office action.

The Provisional application not only uses different drawings and has much less written disclosure, but the corresponding text that is in the Provisional application differs from the text of the Metzger published application. For example, the Office Action rejects claim 1 of the pending application citing Page 1 Par. 14 of the Metzger published application as teaching accepting a reservation for rental of a self-contained in-flight entertainment device. Presumably this relies upon the statement in the Metzger published application in Par. 14, first sentence, that "one or more flight attendants carry one or more portable devices with them as they circulate among the passengers to take food and drink orders, and orders for entertainment during the flight." (emphasis added). However, the corresponding paragraph on Page 2 of the Provisional application states only that "one or more flight attendants carry the user interface device with them as they circulate among the passengers to take food and drink orders during the flight" There is no mention of taking orders for entertainment during the flight. Also, it is clear that the orders for food are not to reserve food, and that the user interface device is simply used to help the flight attendant determine the price of the specified items of food and drink the flight attendant sells from the cart as it is being pushed down the airplane isle and to keep a record of what was sold. There is nothing in the Provisional application about "a self-contained in-flight entertainment device," nothing about accepting a reservation for rental of a self-contained in-flight entertainment device, nothing about adding the reservation to a manifest containing a count of such devices reserved for the flight, and nothing about comparing the count of reserved devices for the flight with how many devices are on board the aircraft, as recited in claim 1. In fact, the citation to the

portions of the Metzger published application alleged to correspond to the last two paragraphs of claim 1 do not even appear in the Provisional application. For example, the cited Pages 2-3 Par. 33-35 include a discussion of the system block diagram and method steps of Figure 2 of the Metzger published application; however, there is no drawing in the Provisional application that corresponds to that Figure 2. Further, the entire discussion in those paragraphs that purport to correspond to the last two paragraphs of claim 1 is missing in the Provisional application. Hence, the Provisional application does not anticipate claim 1. Similarly, the cited discussion on Page 4 Par. 39 of the Metzger published application is missing in the Provisional application. As noted, the Metzger published application does not qualify as prior art and the Provisional application does not have the disclosures of the Metzger published application cited in the Office Action to reject claim 1 or other claims.

For the sake of brevity, Applicants will not address the similar issues that apply to every other claim, but in all cases the Metzger published application is not prior art and the Provisional application fails to anticipate or render obvious any of the other claims. The Provisional application simply deals with the sale of food and drinks to be consumed, and not with the rental of any devices.

It is noted that while Applicants have discussed the Provisional application herein, the Provisional application was not cited as prior art against any claims and the only rejections in the Office Action were based on the Metzger published application and have been fully addressed since the Metzger published application is not prior art against the present application and much of the portions cited are missing from the Provisional application. In addition, Applicants do wish to transverse the assertions in the Office Action concerning Official Notice. These are all based upon disclosures in the Metzger published application which is not prior art, thus using the Metzger published application as a basis upon which to formulate an Official Notice is improper.

Commissioner is hereby authorized to charge the required extension fees of \$525.00, to Deposit Account No. 04-0258 of Davis Wright Tremaine LLP. If additional fees are believed necessary, the Commissioner is further authorized to charge any deficiency or credit any overpayment to Deposit Account No. 04-0258.

All of the claims remaining in the application are now believed to be allowable.
Favorable consideration and a Notice of Allowance are earnestly solicited.

If questions remain regarding this application, the Examiner is invited to contact
the undersigned at (206) 757-8133.

Respectfully submitted,
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